

Remarks

This Reply is timely filed within three months of the mailing date of the latest non-final Office Action. Reconsideration of this Application is respectfully requested.

Applicants draw the Office's attention to the Petition to Correct Filing Receipt filed March 9, 2007, containing a request to add a priority claim to ITALY MI2002A001527 7/11/2002. The receipt of the petition was acknowledged by the Office on May 3, 2007. Applicants respectfully request that this priority claim be noted by the Office.

Claims 37, 39-49, 56, 58, and 77-79 are pending in the application, with claims 37, 49, and 56 being the independent claims. Claims 50-55, 57, and 59-76 stand withdrawn as being directed to non-elected species. Claim 47 is sought to be canceled. Claims 80-87 are sought to be added.

Applicants have amended claim 37 to change the term "activated C5 component" to "C5 alpha chain of a C5 component." Applicants understand that being their own lexicographer, they could (as they did) coin the term "activated C5 component" to mean "C5 alpha chain of a C5 component." Applicants have amended claim 37 to avoid any ambiguity to the extent the person skilled in the art were to read the claim in isolation from the specification. The specification consistently equates the C5 alpha chain to the term "activated C5." Therefore, the specification clearly defines this term. Yet, to obviate any ambiguity and to more clearly recite the claimed invention, Applicants have amended the claim.

Applicants discovered a printing error in the specification in the paragraph [0040]. The phrase "a C5 convertase is produced which cleaves the alpha chain of factor C6" should read "a C5 convertase is produced which cleaves the alpha chain of factor C5." Applicants respectfully draw the Office's attention to the original specification, as filed. The specification has been amended to correct this printing error.

Based on the above amendments and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Newly Added Claims

Applicants introduced new claims 80-87. Independent claims 80-81 are directed to a human antibody that has a specificity for the C5 component of the complement system. Claim 80 recites a sequence of an epitope recognized by said antibody. Support for this claim is found in the original claim 37, as filed. Claim 81 further specifies the location of the epitope recognized by presently claimed antibody. Support for this claim is found in the paragraph [0044] of the specification.

Claims 82-84 depend from claim 49 and recite further features of the instantly claimed chimeric protein. Support for these claims is found in the paragraph [0053] of the specification.

Claims 85-86 depend from claims 37, 49, or 84, and are drawn to the human or chimeric antibody further comprising a peptide tag at the C or N-terminus of said antibody. Support for the claims is found in paragraph [0054] of the specification.

The Rejection of Claims 47 and 49 under 35 U.S.C. § 112

Claims 47 and 49 are rejected under 35 U.S.C. § 112, second paragraph, as "being indefinite and failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention."

Specifically, the Examiner stated that there is no antecedent basis for the limitation "The chimeric protein" in claim 49. Claim 49 has been amended, as suggested by the Examiner, to overcome this rejection.

The Examiner rejected claim 47 on the grounds that there is no antecedent basis for the limitations "murine heavy gamma chain, and rattus norvegicus heavy chain" in this claim. The Examiner stated that because independent claim 37 is directed to a "human antibody", "there is no basis for reciting the heavy chain from a different species in a dependent claim." To overcome this rejection, Applicants cancelled claim 47, and introduced new claims 82 and 83. Both claims 82 and 83 depend from claim 49, which recites a "chimeric protein", rather than a "human antibody". Supported for these claims can be found in paragraph [0053] of the specification. Therefore, newly introduced claims 82 and 83 are believed to properly claim a chimeric protein comprising a sequence derived from species other than human. This change is believed to introduce no new matter, and its entry is respectfully requested.

The Rejection of Claim 49 under 35 U.S.C. § 102

Claim 49 is rejected under 35 U.S.C. § 102 (a, e) as allegedly being anticipated by US 2003/0039649 A1 to Foote, and by US 2004/0001822 A1 to Levanon *et al.*

The Examiner stated that both publications teach a polypeptide sequence "that comprises instantly claimed SEQ ID NO:10." To overcome this rejection, Applicants deleted SEQ ID NO:10 from claim 49. Applicants believe that this amendment places claim 49 in a proper state for allowance.

Applicants added claim 84, which depends from claim 49 and further defines the chimeric protein as comprising the SEQ ID NO:10 capable of inhibiting the conversion of the C5 alpha chain to C5a and C5b. The art of record does not teach or suggest the claimed subject matter. Neither the '649 publication nor the '822 publication – taken alone or in combination – teach or suggest the claimed chimeric antibody. For at least these reasons, Applicant respectfully requests that newly added claim 84 be allowed.

The Rejection of Claims 37, 39-41, 56, 58, and 77-79 under 35 U.S.C. § 103

Claims 37, 39-41, 56, 58, and 77-79 are rejected under 35 U.S.C. § 103 (a), as allegedly being unpatentable over Fitch (Circulation [1999] 100:2499-2506) in view of U.S. Patent No. 5,770,429 to Lonberg *et al.*

The Examiner asserts that:

Fitch teaches a pharmaceutical composition comprising the humanized scFv form of the antibody 5G1.1, which blocks the conversion of activated human C5 to C5a and C5b (see entire reference, Abstract in particular). The claim is drafted in an open format, in that the target C5 polypeptide "comprises" the KDMQLGRLHMKTLTPVSK sequence of human C5. The claim does not require that the antibody binds to the recited sequence, only that the antibody binds to a polypeptide comprising the sequence. Accordingly, any antibody that binds to human C5 and inhibits C5 conversion to C5a and C5b satisfies the metes and bounds of the claim.

Applicants amended claim 37 to more clearly denote the region of C5, namely the sequence 731-740 of the C5, to which instantly claimed antibody binds. Support for this amendment is found in paragraph [0073] of the specification. This change is believed to introduce no new matter and its entry is respectfully requested.

Claims 39-41, 56, and 58 depend from claim 37 and include at least all of the limitations set forth therein. Claims 77-79 are withdrawn as being directed to non-elected species. Therefore, Applicants respectfully submit that the presently introduced changes to claim 37 render the Examiner's rejection of claims 37, 39-41, 56, 58, and 77-79 moot.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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